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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION (STAMP) NO.11741/2007
WITH
CIVIL APPLICATION NO.209 OF 2007

A.R.Nalavade and another Petitioners
versus
The State of Maharashtra & anr. Respondents

Ms.Shubhangi Borade for petitioners.

Ms.Manjari Parasnis for intervenor-applicant in Civil Application.

Mr.A.P.Patil, AGP for respondents.

CORAM : A.S.OKA, J.

DATE : 29th June 2007

PC :

1. Heard advocates for the parties. The first revision applicant was in the employment of Government of Maharashtra. By virtue of his employment with the Government of Maharashtra, he was allotted the suit premises as service quarter. On 31st May 1991 first applicant retired from Government service. The second revision applicant is not a party to the proceedings before the Appellate Court or before the competent authority. The second applicant is

the son of the first applicant. According to the case of the applicants, the second applicant was granted employment by the State of Maharashtra on 1st March 1987.

2. The proceedings for eviction were initiated against the first applicant under the Bombay Government Premises (Eviction) Act, 1955 on the ground that the first applicant was in unlawful possession of the suit premises even after his retirement. The order of eviction was passed by the Estate Officer which was challenged by the first revision applicant by preferring an appeal. The said appeal has been dismissed by the learned Principal Judge of the City Civil Court.

3. The learned advocate for the applicants placed reliance on Government Circular dated 31st December 1984 and contended that in view of the said Government Circular, the second revision applicant was entitled to allotment of the suit premises as the said Circular is squarely applicable to the case of the second applicant. Reliance is also placed on a certificate issued by the Executive Engineer of the State Government stating that the second revision applicant has not misused the Government Quarters. The second

applicant has filed a separate Civil Application being Civil Application No.290 of 2007. In the said application, the advocate for the second applicant has prayed for impleadment as a party to the revision application.

4. I have considered the submissions. It is an admitted fact that the first applicant has retired from Government service on 31st May 1991. Therefore, he has no right to retain the Government premises allotted to him as a service quarter. Whether the son of the first applicant is entitled to the allotment of the same service quarter is altogether a different issue. If the son claims entitlement to the allotment of the same service quarter on the basis of certain Government policy, it will be for him to adopt his own remedy on the basis of the alleged policy. However, that is not a ground for the first applicant to retain the possession of the Government premises.

5. A grievance is made that the second applicant had applied for allotment of the same premises and he is not provided with a copy of order by which his application has been rejected. As stated earlier, in this revision application,

this Court is concerned only with the order of eviction passed against the first revision applicant and his alleged right to retain the Government premises. It is obvious that the first applicant has no right to retain the Government Quarter after his retirement and that is how the order of eviction has been passed which has been confirmed in the appeal.

6. There is no merit in the revision application. It is made clear that no adjudication has been made on the rights of the second revision applicant on the basis of the alleged policy of the State Government. Hence, I pass following order:-

a) Revision Application is dismissed with no order as to costs;

b) Subject to what is stated above, Civil Application No.209 of 2007 is rejected;

c) Notwithstanding this order, the order of eviction shall not be executed for a period of six weeks from today.

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(A.S.OKA, J.)